

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MAGDIEL BLAIR,

Plaintiff

v.

CAPSTONE CONSULTING, INC.,

Defendant.

Case No. _____

NOTICE OF REMOVAL

Defendant Capstone Consulting, Inc. ("Capstone") by and through its attorneys, and in accordance with the applicable Federal Rules of Civil Procedure, Local Rules of the United States District Court for the District of Nebraska, and Title 28 United States Code ("U.S.C.") §§ 1441 and 1446, hereby files its Notice of Removal. Capstone requests that this Court remove this action filed by the Plaintiff, Magdiel Blair ("Plaintiff"), from the District Court of Douglas County, Nebraska, to the United States District Court for the District of Nebraska located in Omaha, Nebraska. In support of this Notice of Removal, Defendant states as follows:

1. On or about October 19, 2016, Plaintiff initiated this action by filing a Complaint in the District Court of Douglas County, Nebraska styled *Magdiel Blair v. Capstone Consulting Inc.*, Case No. CI 16-8887 (hereafter "Plaintiff's Complaint"). A true and correct copy of Plaintiff's Complaint is attached as **Exhibit A** and incorporated herein by reference.

2. Capstone was served with the Complaint on October 21, 2016, requiring any notice of removal to be filed on or before November 21, 2016, pursuant to 28 U.S.C. § 1446(b). A true and correct copy of Plaintiff's Affidavit of Service is attached as **Exhibit B** and incorporated herein by reference. Therefore, Capstone is timely filing this Notice of Removal.

3. Plaintiff's Complaint asserts violations of the Americans with Disabilities Act, as amended (the "ADA") and Title VII of the Civil Rights Act of 1964 ("Title VII"). Specifically, Plaintiff is asserting that Capstone Consulting, Inc. discriminated against him on the basis of his disability, sex, and religion, and retaliated against him under both the ADA and Title VII.

4. This court has original jurisdiction over Plaintiff's claims by virtue of § 706 of Title VII, or 42 U.S.C. § 2000e-5(f)(3), which vests the federal district courts with jurisdiction of actions brought under Title VII, and § 107 of the ADA, or 42 U.S.C. § 12117, which incorporates § 706 of Title VII by reference. Therefore, Plaintiff's Complaint presents questions of federal law and this Court has original jurisdiction over the issues presented in the Complaint, as this is a civil action arising out of the laws of the United States pursuant to 28 U.S.C. § 1331.

5. Additionally, 28 U.S.C. § 1441(a) provides that "any civil action of which the district courts of the United States have original jurisdiction, may be removed by the defendant." Accordingly, this matter may be properly removed to this Court.

6. This Court has supplemental jurisdiction over all other claims in Plaintiff's Complaint pursuant to 28 U.S.C. § 1367(a).

7. The United States District Court for the District of Nebraska encompasses Douglas County, the district and division in which the Complaint was filed and in which

Plaintiff was employed and/or performed work for Capstone. Thus, removal is proper to this Court pursuant to 28 U.S.C. § 1441(a).

8. Upon information and belief, the only pleading applicable to this Notice of Removal is Plaintiff's Complaint, attached as **Exhibit A**, pursuant to 28 U.S.C. § 1446(a).

9. Pursuant to 28 U.S.C. §1446(d), Capstone will promptly file a copy of this Notice of Removal with the Clerk of the District Court of Douglas County, Nebraska, and will serve a copy of the Notice of Removal on Plaintiff's counsel.

Dated this 17th day of November, 2016.

CAPSTONE CONSULTING, INC., Defendant

By: 

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CERTIFICATE OF SERVICE

On November 17, 2016, I electronically filed the above and foregoing with the Clerk of the U.S. District Court using the CM/ECF system and that I served a copy of the foregoing via United States mail, postage prepaid, to:

Ryan J. Lewis
Katskee, Suing, & Maxwell pc llo
10404 Essex Ct., Suite 100
Omaha, NE 68114


